The Planning Inspectorate

Appeal Decision

Site visit made on 15 July 2019

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 August 2019

Appeal Ref: APP/M5450/W/19/3228499
Moss Cottage, 31 Paines Lane, Pinner, HA5 3BU and 2 Moss Lane, Pinner HA5 3AX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by James Estate Agents against the decision of Harrow Council.
- The application Ref P/5443/17, dated 27 November 2017, was refused by notice dated 13 November 2018.
- The development proposed is two detached dwellings.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the suitability of the site with regard to the spatial strategy; the effect on the character and appearance of the area with particular regard to the loss of trees; and the effect on the significance of the grade II listed buildings.

Reasons

3. The proposal would result in two detached dwellings within the gardens of Moss Cottage and 2 Moss Lane. These properties are grade II listed and the listing description advises that they were originally a single residence but were divided in the 1950's. They currently share a large rear garden which is dominated by large trees, many of which are included within a tree preservation order (TPO).

Location of development

4. The spatial strategy, set out in the Harrow Core Strategy 2012 (CS), seeks to manage growth by directing development to the Intensification Area, town centres and strategic previously developed sites. Core Policy CS 1B advises that proposals that would harm the character of suburban areas and garden development will be resisted.

5. The Council's Supplementary Planning Document: Garden Land Development 2013 (SPD) sets out a presumption against garden land development but includes an exception for gap sites. These are described as an anomalous

'missing piece' from an otherwise clearly defined rhythm of buildings (and spaces around buildings) in the street scene. It goes on to describe that corner sites do not constitute the kind of gaps to which the exception applies. It provides an image of a corner site which is consistent with the developments proposed.

6. The appellant has put forward a number of reasons why these plots should be considered as gap sites. There is no dispute that there is a large gap between the listed properties and 39 Paines Lane and 6 Moss Lane. It is also accepted that the proposed plot widths would be similar to the adjacent plots. However, these houses would extend the existing more modern developments along Moss Lane and Paines Lane and encroach into this corner plot which forms the garden of the listed properties. This corner plot has an entirely different character and layout to those of the more modern properties.

7. The appellant advises that the numbering of the dwellings in Paines Lane and Moss Lane is such that those numbering the streets obviously considered there to be gaps that led to numbers being omitted from the sequence. This is not relevant to the current development plan.

8. Given the clear guidance set out in the SPD, it is entirely clear that these plots would not represent gap sites. The is therefore a presumption against this development and the proposal would be at odds with the objectives of the SPD and Core Policy CS 1B. Policy 3.5A of the London Plan 2016 (LP) supports the introduction of a presumption against the development of private residential gardens where this can be locally justified. The National Planning Policy Framework (the Framework) advises, at paragraph 70, that the case for setting out policies to resist inappropriate development of residential gardens should be considered. I therefore find Core Policy CS 1B to be consistent with the LP and the Framework and afford it considerable weight.

Character and appearance

9. British Standard BS:5837 'Trees in relation to design, demolition, construction - Recommendations' (2012) provides guidance on the principles to be applied to achieving a satisfactory juxtaposition of trees with structures. It recommends that trees within categories A-C (where A is the highest quality) are a material consideration in the development process. The proposal would result in the removal of a number of trees and other vegetation and there would also be encroachment into the root protection zones of trees to be retained. The Arboricultural Impact Assessment advises that these encroachments would not be likely to impact on the health of the trees, if appropriate protection and construction methods were adopted.

10. Development within Plot 2 would necessitate the removal of two trees that are covered by the TPO. A large yew would be removed which is described as being within category B and the dominant tree in the streetscape with a good crown form. The second tree, which is behind the yew, is a lime within category C. Both are described as having good vitality. It is suggested that in the medium term these trees would be likely to outgrow their close relationship with the neighbouring property. However, whilst works to them may be necessary over time, I have no reason to believe that these trees would have to be removed in the short to medium term. They are dominant features within the street scene

and are visible from significant distances. The loss of these trees would result in significant harm to the character and appearance of this site and the wider area.

11. To develop Plot 1, part of the cyprus hedge and the coniferous trees behind it would have to be removed to form the access. These trees do not appear to be part of the TPO and have not been included in the tree survey. They contribute to the greenery of the site and help to provide visual separation between the more modern neighbouring house and the listed buildings. Their removal would not be a positive feature of the development.

12. I acknowledge the suggestion that there is potential for additional planting and enhanced landscaping and I accept that the replacement trees and hedges could be of native species which may enhance biodiversity. However, the space for such planting, other than boundary enhancements, would be limited. Overall, the loss of vegetation generally and the felling of the protected trees in particular, would result in unacceptable harm to the character and appearance of the area and this weighs significantly against the proposal.

13. The new dwellings would extend, to some extent, the character of the large detached properties that lie to the east and southeast. The garden of the listed properties would continue to be perceived as being significantly larger than those of the more modern houses. The proposed houses, although not the largest within the vicinity, would however be of a substantial size and would have a considerable bulk. They would be built in relatively close proximity to the boundaries and they would dominate the width of their plots. The substantial depth of the side elevation of Plot 2 would be exposed to view and would represent a particularly dominant feature when viewed from Moss Lane. Although not raised as a concern by the Council, I find that these relationships, rather than helping to integrate the developments into the more open setting of the remaining garden of the listed properties, would result in more dominant and strident relationships than the properties that currently bound this site.

14. Overall, the loss of the mature trees and other vegetation would result in unacceptable harm to the character and appearance of the area. The scale of the houses and their domination of their plots, adjacent to the retained garden area, would add to this concern. The development would be contrary to LP policy 7.4B(b); CS policy CS 1B; and DMP policy DM1. As these policies generally accord with the design requirements of the Framework, I afford them considerable weight.

Listed buildings

15. The proposed houses would be set a significant distance from the listed dwellings and a substantial area of garden would be retained. The trees to be removed would be furthest from them and would be in an area that is already dominated, to an extent, by new development. It is evident from the historic plans that the open setting of the listed buildings has been eroded over the years. The landscape features that would remain would help to reduce the impact of the further incursion into the setting of these buildings. Additional planting would also help to reduce the impact of the houses on the retained garden area. From outside the site, the proposal would reduce the

spaciousness and openness of the setting of the listed properties but this harm would be relatively limited.

16. Given the historic rural origins of Moss Cottage, the large combined garden and the mature trees contribute significantly to the setting of these buildings and their significance. The trees and vegetation that would be removed currently help to reduce the impact of the more modern developments on these listed houses and their garden. Despite the potential for new planting, the scale of the proposed properties, built in such close proximity to the retained garden, would result in them being overly dominant when experiencing the listed buildings from within their curtilage. This would result in unacceptable harm to the setting of these buildings and would detract from their significance.

17. I am not satisfied that the design or scale of the proposed houses has fully had regard for, or sought to minimise the impact on, the significance of these listed properties. The development would result in conflict with the heritage requirements of LP policy 7.8; CS Core Policy CS 1D; and DMP policy DM7.

Other matters

18. The proposal would result in social benefits, supported by paragraph 59 of the Framework, in providing two dwellings that would contribute to housing supply. The residents would be likely to contribute to and support the activities and services of the area. There would be economic advantages from the construction works involved in building the new dwellings. Residents would contribute to the local economy by their own economic activity and by their use of the local shops and services. As this is a relatively accessible location, the residents would have opportunities to use modes of travel that would not rely on private vehicles. These matters represent social, economic and environmental benefits.

Conclusions

19. There would be a number of public benefits with regard to social, economic and environmental objectives resulting from the provision of two new family houses in this particular location. There would however be harm with regard to the character and appearance of the area and the impact on the listed properties, in addition to the conflict with Core Policy CS 1B and the SPD, which set a presumption against garden land development.

20. DMP policy DM22 is clear that the removal of trees subject to a TPO will only be considered acceptable where it can be demonstrated that the loss of the trees would be outweighed by the wider public benefits of the proposal. Given the CS spatial strategy, I am not satisfied that this would be the case. The proposal would therefore be contrary to DMP policy DM22 as well as LP policy 7.4B(b); CS policy CS 1B; and DMP policy DM1.

21. The Framework is clear that any harm to heritage assets should be weighed against the public benefits of the proposal. Although the layout has been carefully considered, the scale of the works, so close to the proposed boundaries, would result in harm to the significance of the listed buildings. The harm would be less than substantial, as described in paragraph 196 of the Framework, but the public benefits would not be sufficient to outweigh this harm. The works would conflict with the heritage requirements of the

Framework in addition to being contrary to LP policy 7.8; CS Core Policy CS 1D; and DMP policy DM7.

22. There would be clear conflict with the development plan with regard to both the development of garden land, the harm that would result to the character and appearance of the area and the harm to the heritage assets. I find that the proposal results in conflict with the development plan when considered as a whole.

23. I am not satisfied that the social and economic benefits, in combination with the environmental benefits associated with the accessible location, would be sufficient to outweigh the overall environmental concerns identified. As a result, I find conflict with the Framework as a whole.

24. Whilst I have considered all the matters put forward, the considerations in favour of the proposal do not suggest that a decision other than in accordance with the development plan should be reached. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR